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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,787	06/24/2005	lou Lei	14982-4768-4	6579
24728 7590 03/11/2008 MORRIS MANNING MARTIN LLP 3343 PEACHTREE ROAD, NE 1600 ATLANTA FINANCIAL CENTER ATLANTA, GA 30326				
EXAMINER				
YEE, DEBORAH				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
03/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/516,787

**Applicant(s)**

LEI, IOU

**Examiner**

Deborah Yee

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 to 8 and 10 to 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 to 8 and 10 to 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 19, 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 to 6 and 11 to 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Parent claim 1 is indefinite where it specifies "predetermined", when "predetermined" according to applicant's definition, merely means determined before hand. If Applicant desires to patent detailed controls over the process, they should be affirmatively recited in the claim. If all that is asserted as the invention is the use of controls as such, the use of controls is an old and obvious expedient, see *Joseph E. Seagram & Sons, Inc. v. Marzall*, 84USPQ180-181. All claims dependent on claim 1 are also indefinite for the same reason.

Art Unit: 1793

5. Claim 13 is indefinite because it recites an incomplete process. Note claim 13 is directed to the process of manufacturing kitchen utensils wherein the kitchen utensil is a straight body and cut edge cooker with a compound base yet the step of forming a compound base by solder brazing or impact bonding is not recited.
6. In claims 11 and 13, the term " $\Phi 510\text{mm}$ " is indefinite because it is uncertain what it indicates, diameter or circumference, etc. Also the R16, R11, R16 and R5 refer to angle of die but it uncertain how it is measured. For instance, can R16 be equivalent to 16 degrees from longitudinal axis of die?

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 to 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the computer-generated English translation of Japanese patent 10-121205 (JP'205), the computer-generated English translation of Japanese patent 11-302739 (JP'739) alone or in view of US Patent 6,702,140 (US Patent '140).
9. The English abstracts of JP'205 and JP'739, each disclose a steel alloy use for making kitchen utensils having a composition with constituents whose wt% ranges overlap those recited by the claims; such overlap in wt% ranges establishes a prima facie case of obviousness since it would be obvious for one skilled in the art to select

Art Unit: 1793

the claimed alloy wt% ranges over the broader disclosure of the prior art since the prior art teaches the same utility.

10. More specifically, JP'205 discloses steels 9, 22 and 29 in tables 1 and 2 on pages 11 and 12, and JP'739 discloses steel 5 in table 1 on page 8 that meet the claimed composition except for P, S and Al.

11. Even though prior art alloys contain the additional elements, P, S and/or Al, such would not be excluded by the recited limitation "consisting of" since they are listed as optional elements with a lower limit of zero and therefore can be omitted. Note P and S are unavoidable impurities found in steel and ideally kept as low as possible but limited by economical restrictions. In addition, Al is listed as an optional deoxidizer that can be omitted. See paragraph [0040] of JP'739 teaches "Si, Mn, and Aluminum ...**may be** used as a deoxidizing element"; and paragraph [0019] of JP'205 teaches Al is "useful for deoxidation....not more than 0.10wt% preferably" (lower limit is zero) can be added.

12. With respect to process claims 1 to 6, prior art teaches producing a ferritic stainless sheet blank by rolling followed by press working (equivalent to elongation process) to form finished product, which is a kitchen instrument (equivalent to kitchen utensil). See JP'739, paragraphs [0002]-[0004] and JP'205, paragraphs [0001]-[0004].

13. Although stamping as recited by claim 1 is not taught by prior art, such would not be a patentable difference. Note that stamping is a conventional means for deforming steel, as evident by lines 24 to 29 in column 2 of US Patent'140 and hence would be a matter of choice well within the skill of the artisan to incorporate in order to form steel blank (wafer).

Art Unit: 1793

14. With regard to oil rolling recited by claim 1, note that JP'739 in claim 5 teaches carrying out rolling with lubrication such that average coefficient of friction between a roll and a rolled plate in finish rolling may become 0.2 or less when hot rolling.

15. Although trimming and surface treating as recited by claim 1 is not taught by primary prior art, such would not be a patentable difference. Note it is conventional practice after deforming, to subject kitchen utensil to rough surface removal and surface treatment, as evident by secondary teaching, US Patent '140, claim 18 of column 9.

***Response to Arguments***

16. Applicant's arguments filed February 19, 2008 have been fully considered but they are not persuasive.

17. It was submitted that JP'205 does not teach  $Ni \leq 0.06$  and  $Ti \leq 0.75$  as required by claim 1. Moreover, JP'205 requires the additional elements P, S, and Al which are excluded by "consisting of" recited by claim 1.

18. Contrary to Applicant's submission, JP'205 in paragraph [0025] teaches the presence of Ti such that  $Ti/(C+N) = 10$  to 30; and paragraph [0030] teaches the presence of Ni below 2.0 %, which overlap with the respective Ni and Ti ranges recited by claim 1. With regard to P, S, and Al, see paragraph 9 in office action.

***Allowable Subject Matter***

19. Claims 11 to 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 1793

20. The following is a statement of reasons for the indication of allowable subject matter: The art of record does not teach or suggest the process parameters for making a kitchen utensil as recited by claims 11 to 14.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Yee whose telephone number is 571-272-1253. The examiner can normally be reached on monday-friday 6:00 am-2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Deborah Yee/  
Primary Examiner  
Art Unit 1793

/DY/